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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/189,615	11/09/1998	NIELS GEBAUER	33012/246	5678

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EXAMINER

ROBINSON, GRETA LEE

ART UNIT PAPER NUMBER

2177

DATE MAILED: 10/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/189,615

Applicant(s)

GEBAUER, NIELS

Examiner

Greta L. Robinson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 16-18 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 5, 15, 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 1-22 are pending in the present application.
2. **Cook and Dawson et al.** was cited as prior art in the last office action paper number twelve.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6-14, 16-18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook US Patent 5,621,892 in view of Dawson et al. US Patent 6,347,330 B1 .

With respect to claim 1, **Cook** teaches in a data processing environment having a user terminal which generates a service request coupled to a publicly accesible digital communications network and having a data base management system which receives and responds to said service request when available, the improvement comprising:

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a server coupled to said terminal via said publically accessible digital communications network and coupled to said data base management system wherein said server includes an administration management system which transfers an unavailability message to said user terminal in response to said service request when said data base management system is unavailable to receive and respond to said service request [see: abstract; figure 2 and figure 4; col. 3 line 58 through col. 4 line 9; col. 5 lines 3-14].

Although Cook teaches the invention substantially as cited above, he does not specifically disclose that the alert is an unavailability message. Dawson et al. teaches an alert message that lets the user know the system is not available [abstract; figure 1; col. 4 lines 25-58; col. 5 lines 1-52]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Cook with Dawson et al because Dawson et al would let the user know that the specific alert type such as the system is unavailable because of insufficient memory.

5. With respect to claims 2-4:

(Claim 2) wherein said state manager includes a repository for storing said unavailability message [Cook note event manager (214) figure 2; col. 4 lines 50-66].

(Claim 3) wherein said publically accessible digital communications network is the world wide web [Cook note service providers (240) col. 4 lines 2-9]

(Claim 4) wherein said repository includes space for storage of at least one variable for said availability message [Cook (622) figure 6].

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6. With respect to claim 6:

- a. a user terminal which generates a service request [Cook figure 2 (212, 220)];
- b. a publically accessible digital communications network coupled to said user terminal [Cook network (210) figure 2]; and
- c. a server coupled to said publically accessible digital communications network [Cook (214) figure 2];
- d. a data base management system responsively coupled to said server which responds to said service request if available [Cook (228) figure 2]; and
- e. an administration management system responsively coupled to said data base management system and said server which transfers an unavailability message from said server to said user terminal in response to said service request when said data base management system is not available to indicate unavailability of said data base management system [note: Cook, event management (222) figure 2; col. 3 line 58 through col. 4 line 9; col. 5 lines 3-14].

7. With respect to claims 7-10:

(Claim 7) wherein said data base management system has a repository having storage for said unavailability message [Cook note event manager (214) figure 2; col. 4 lines 50-66].

(Claim 8) wherein said repository has storage for a variable to be included in said unavailability message [Cook (622) figure 6].

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(Claim 9) wherein said publically accessible digital communications network is the world wide web [Cook note service providers (240) col. 4 lines 2-9]

(Claim 10) wherein said user terminal is an industry compatible personal computer having a commercially available web browser [Cook inherent].

8. With respect to claim 11:

transmitting a service request ... determining whether said data base management system is currently capable of honoring said service request ... honoring said service request ... transferring an unavailability message to said terminal if said determining step determines that said data base management system is not currently capable of honoring said service request [Cook col. 7 lines 6-9; col. 7 line 46 through col. 8 line 10]

9. With respect to claims 12-14:

wherein said transferring step further comprises transferring said availability message ... [Cook figure 4 (418); col. 4 lines 50-53].

10. With respect to claim 16:

means for permitting a user to interact with a digital data base by generating a service request in anticipation of a response ... [Cook col. 4 lines 40-49].

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11. The limitations of claim 17, 18 and 20-22 have been addressed above therefore; they are rejected under the same rationale.

Allowable Subject Matter

12. Claims 5, 15, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. In the response Applicant argued the following: The examiner has failed to establish a *prima facie* case of obviousness. The cited prior art does not teach an “unavailability message”. Applicant submits a declaration under 37 CFR 1.132 which rebuts the cited references.

In response, to Applicant’s argument, sufficient motivation to combine the cited references can be found in both Cook and Dawson. Cook teaches an “*event management system for handling alerts and events*”; and using a “standard interface definition, any of a wide variety of different alert types generated within the networked computers can be triggered” [note: abstract Cook]. Also see Cook col. 1 lines 1-28 and col. 3 line 58 through col. 4 line 9, which states that alerts are sent by an event management software by computers coupled in a network. Dawson et al. was cited as also teaching events. Dawson teaches that an event is a message that

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may alert the end user that the system is unavailable because of failure [note: Dawson, col. 4 lines 45-46; col. 5 lines 1-52]. Dawson et al. specifies the type of alert (i.e. an unavailability message).

The declaration filed under 1.132 is insufficient to overcome the prior art rejection reasons cited below.

14. The declaration under 37 CFR 1.132 filed August 12, 2002 is insufficient to overcome the rejection of claims 1-22 based upon Dawson as set forth in the last Office action because: the facts presented are not germane to the rejection at issue. Also, the inventors of the subject matter claimed have not made the declaration.

15. Applicant's arguments filed August 12, 2002 have been fully considered but they are not persuasive.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta Robinson whose telephone number is (703)308-7565. The examiner can normally be reached Monday through Friday from 9:30 AM to 6:00 PM.

If any attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached at (703)305-9790.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703)746-7239, (for formal communications)

Or:

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(703)746-5657, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)305-9600.



GRETA ROBINSON
PRIMARY EXAMINER

Greta Robinson

October 16, 2002